

Docket No. 223140US55



Att. to #29

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
Tom Tsang et al : EXAMINER: Priebe
SERIAL NO: 09/09/185,243 :
FILED: November 03, 1998 : GROUP ART UNIT: 1632

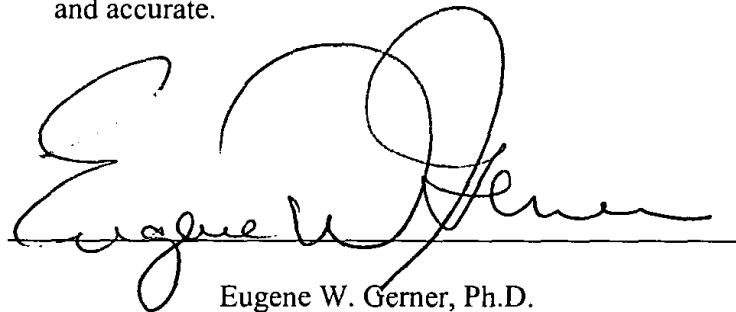
FOR: HYPERTHERMIC INDUCIBLE EXPRESSION VECTORS FOR GENE
THERAPY AND METHODS OF USE THEREOF

DECLARATION UNDER 37 C.F.R. § 1.132

Now comes Dr. Eugene W. Gerner who states:

1. That I am a professor of Radiation Oncology and Biochemistry and
Molecular Biophysics at the University of Arizona, Tucson.
2. That I am a named inventor on the above-referenced Patent
Application.
3. That the experiments, which generated the data presented in Table 4
on page 66 of this application were performed under my supervision.
4. That the data in Table 4 is a tabular depiction of the data, which was
taken from the data presented in the graph attached as exhibit 1.
5. That in this graph there are numerical values at the apex of each of the
bars representing the I.U. of IL-2 in these experiments that correspond
to the numerical values presented in Table 4.

6. That in reproducing the data, a photocopy of this figure was given to the patent attorneys who drafted this application, and in this photocopy, some of the numbers were occluded by the shaded bars. This is clear upon inspection of the original copy of the figure, which is attached. This is also supported by all of the corresponding information including the construct names, temperature, duration, I.U. of IL-2, as well as the remaining data. Furthermore, this is supported by the fact that the only numbers which were corrected in Table 4 by way of the Amendment were those that overlap the shaded bars.
7. This error was inadvertent and arose without any deceptive intent.
8. That I declare under perjury that the foregoing is believed to be true and accurate.



Eugene W. Gerner, Ph.D.

February 26, 2003
Date